

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
SUMTER COUNTY

State of South Carolina, )  
Plaintiff, ) Case  
vs. ) No: 2021 A431 0200 323  
Khammesharma Smith, )  
Defendant. ) MOTION TO DISMISS:  
REPORT and RECOMMENDATION

The defendant, a state prisoner proceeding pro se, brings this action pursuant to 28 U.S.C. § 1915 (g), and Local Civil Rule, in conjunction with Fed. R. Civ. P. 72, that the defendant complied with the court's order, to, resolve the disposition of the case. The position of the defense, is, recommending that be dismissed.

ALLEGATION

The defendant, is alleged, by the plaintiff (The State of South Carolina), that he was unlawfully carrying a weapon [pistol], and, that reasons to believe the accusation derived from a third party witness, which led to a warrantless search, after the defendant was accused of allegedly discharging the weapon.

STANDARD OF REVIEW

The case, is a municipal court case. The state, has assigned a public defender to the defendant. No general sessions, were held, but the case has proceeded to, trial.

DISCUSSION

The plaintiff, has violated Fed. R. Civ. P., Local Civil Rules, and, violated the defendant's, 1<sup>st</sup>, 14<sup>th</sup>, and, 5<sup>th</sup> Amendment Rights, out of court, and, against the state.

RECOMMENDATION

The plaintiff cannot cure the defects undersigned & identified above. The defendant recommends that the state dismiss the action without prejudice and without issuance and service of process.

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**Orders on Motions**

3:22-cv-02136-HMH-KFM Smith  
v. Cooke

GREENVILLE, KFM-Inmate

**U.S. District Court**

**District of South Carolina**

**Notice of Electronic Filing**

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**Case Name:** Smith v. Cooke

**Case Number:** 3:22-cv-02136-HMH-KFM

**Filer:**

**Document Number:** 14(No document attached)

**Docket Text:**

**TEXT ORDER granting [4] Motion for Leave to Proceed in forma pauperis Signed by Magistrate Judge Kevin McDonald on 8/9/2022.(kric, )**

**3:22-cv-02136-HMH-KFM Notice has been electronically mailed to:**

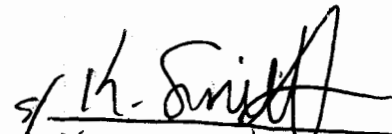
**3:22-cv-02136-HMH-KFM Notice will not be electronically mailed to:**

Khammesherma Smith  
378685  
Kershaw Correctional Institution  
Cypress 3B  
4848 Goldmine Highway  
Kershaw, SC 29067

Smith v. State of South Carolina

2021A430200323

August, 22 2022  
Kershaw, South Carolina

  
Khammesherma Smith  
Pro SE, Defendant